

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES—GENERAL

Case No. CV 19-2306-MWF (AFMx)

Date: March 28, 2019

Title: Matthew Hogan v. Matthew J. Weymouth, et al.

Present: The Honorable MICHAEL W. FITZGERALD, U.S. District Judge

Deputy Clerk:
Rita Sanchez

Court Reporter:
Not Reported

Attorneys Present for Plaintiff:
None Present

Attorneys Present for Defendant:
None Present

Proceedings (In Chambers): ORDER RE: PLAINTIFF MATTHEW HOGAN’S EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER [8]

Before the Court is Plaintiff Matthew Hogan’s Ex Parte Application for Temporary Restraining Order (the “Application”), filed on March 28, 2019. (Docket No. 8). Through the Application, Plaintiff seeks to enjoin Defendant Matthew J. Weymouth from harassing, intimidating, stalking, and threatening Plaintiff. (*Id.* at 4). Plaintiff also seeks to enjoin Defendant Weymouth from contacting him in any way. (*Id.*). Plaintiff finally seeks to require Defendant Weymouth from staying at least 50 yards away from Plaintiff, his home, his workplace, and his vehicle. (*Id.*).

For the reasons discussed below, the Application is **DENIED**.

On March 27, 2019, Plaintiff commenced this action against several Defendants. (*See* Complaint ¶¶ 3–8). Relevant to the Application is Defendant Weymouth, a resident of Massachusetts and an acquaintance of Plaintiff since college. (*Id.* ¶¶ 3, 12). The crux of the Complaint is that Plaintiff’s “playful trash talk” with Defendant Weymouth—concerning co-Defendant Patrick Chung’s injuries during the Superbowl LIII game—resulted in harm to Plaintiff’s reputation, various forms of harassment on social media, and loss of economic opportunities. (*Id.* ¶¶ 22–61).

Plaintiff asserts five claims for relief: (1) defamation against all but Defendant Weymouth; (2) disclosure of private facts against all Defendants; (3) false light publicity against all but Defendant Weymouth; (4) intentional infliction of emotional

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distress against all Defendants; and (5) civil harassment against Defendant Weymouth. (*Id.* ¶¶ 62–93). Plaintiff has not served the Complaint or Application on any Defendant.

It is axiomatic that a temporary restraining order cannot be issued absent a plaintiff’s showing that he is likely to succeed on the merits of his claims. *See, e.g., Idaho v. Coeur d’Alene Tribe*, 794 F.3d 1039, 1046 (9th Cir. 2015) (“To obtain a preliminary injunction [or a temporary restraining order], the moving party must establish that: (1) it is likely to succeed on the merits; (2) it is likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in its favor; and (4) an injunction is in the public interest.”) (internal quotation marks and citations omitted).

Here, Plaintiff fails to show why he is likely to succeed on the merits of his claims against Defendant Weymouth. Plaintiff’s Application, which was prepared using a Judicial Council of California form, simply restates some of the allegations in the Complaint. Indeed, the Court is skeptical that the Application would even be deemed sufficient in Superior Court.

Moreover, there is no indication that Defendant Weymouth has been served with the Complaint or Application in this action. The Court cannot grant the Application without notice unless Plaintiff provides evidence that immediate and irreparable harm will result before Defendant Weymouth can be heard, and explains the efforts that have been made to give notice. *See* Fed. R. Civ. P. 65(b)(1); *Reno Air Racing Ass’n, Inc. v. McCord*, 452 F.3d 1126, 1131 (9th Cir. 2006) (holding that temporary restraining order was improperly granted without notice).

Accordingly, Plaintiff’s Application is **DENIED**.

IT IS SO ORDERED.